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The Honorable Karen A. Overstreet
Chapter 7
Hearing Date: June 25, 2010
Hearing Time: 9:30 A.M.
Hearing Location: Seattle
Response Date: June 18, 2010

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

In re:) Case No: 07-13346-KAO

STEVEN C. BATEMAN and VIRGINIA T.
LEE,

Debtors.

Case No: 07-13346-KAO

EDMUND J. WOOD, solely in his capacity as Chapter 7 Trustee for the Bankruptcy Estate of Steven C. Bateman and Virginia T. Lee,

Plaintiff.

FLAWLESS. 39 15.5 MM

VS.

**DEFENDANT NORTHWEST
TRUSTEE SERVICES, INC.'S
STATEMENT OF
UNCONTROVERTED FACTS IN
SUPPORT OF NWTS' MOTION FOR
SUMMARY JUDGMENT AND
MEMORANDUM OF LAW IN
SUPPORT THEREOF**

DEUTSCHE BANK NATIONAL TRUST

COMPANY as Trustee for Long Beach
Mortgage Loan Trust 2006-1: LONG BEACH

MORTGAGE COMPANY; WASHINGTON
MUTUAL BANK, as successor-in-interest to

Long Beach Mortgage Company by operation of law and/or as its attorney in fact; JP MORGAN

CHASE BANK, N.A.; LENDER'S
PROCESSING SERVICES, INC.; PLATINUM

HOMES, INC.; NORTHWEST TRUSTEE SERVICES, INC..

Defendants.

DEFENDANT NWTS'S STATEMENT OF
UNCONTROVERTED FACTS IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT - 1
AP Case No. 09-01184-KAO

ROUTH CRABTREE OLSEN, P.S.

A Law Firm and Professional Services Corporation

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1 Northwest Trustee Services, Inc. (“NWTS”), by and through its attorneys of record,
2 Routh Crabtree Olsen, P.S., submits the following Statement of Uncontroverted Facts pursuant to
3 Local Rule 7056-1 in support of its Motion for Summary Judgment.

4 **STATEMENT OF UNCONTROVERTED FACTS**

5 On or about December 2, 2005, Debtors Steven C. Bateman and Virginia T. Lee (the
6 “Debtors”) executed and delivered a deed of trust (the “Deed of Trust”) and promissory note (the
7 “Note”) for the benefit of Platinum Homes, Inc. (“Platinum”) in order to secure a loan for the
8 property located at 3529 SW 98th Street, Seattle, Washington 98126 (the “Property”).
9

10 The Debtors defaulted on their loan by failing to make payments as due and owing. *See*
11 Affidavit of Chris Ashcraft, ¶ 4 and Declaration of Stacey Smith in Support of Deutsche Bank as
12 Trustee’s Motion for Summary Judgment, ¶ 12.

13 On May 22, 2007, Washington Mutual (“WAMU”), servicing agent for Deutsche Bank
14 National Trust Company, as Trustee for Long Beach Mortgage Loan Trust 2006-1, its successors
15 in interest, agents, assignees and/or assignors (“Deutsche Bank as Trustee”), retained NWTS to
16 foreclose on the Property and instructed NWTS to initiate a non-judicial foreclosure proceeding.
17 *See* Affidavit of Chris Ashcraft, ¶ 3. NWTS prepared, delivered and posted a Notice of Default
18 that same day. *See* Affidavit of Chris Ashcraft ¶ 4.

20 Also on May 22, 2007, NWTS delivered for review and execution an Assignment of
21 Successor Trustee (the “AST”) and Assignment of Deed of Trust (the “ADT”) to WAMU. True and
22 correct copies of the AST and ADT are hereto attached as Exhibits A and B, respectively. The AST
23 purported to appoint NWTS as successor trustee for the Deed. *See* Affidavit of Chris Ashcraft, ¶
24 5. On May 24, 2007, NWTS received the executed AST from WAMU. *See* Affidavit of Chris
25 Ashcraft, ¶ 6. Per company policy, NWTS did not immediately record the AST. Rather, NWTS
26

1 intended to send the AST for recording with the, yet to be received, ADT. *See* Affidavit of Chris
2 Ashcraft, ¶ 7.

3 The AST was signed by Amy Weis, the Assistant Vice President of Washington Mutual,
4 in her disclosed capacity as an agent of Deutsche Bank National Trust Company. *See* Exhibit A.
5 It was later determined that Ms. Weis mistakenly dated the AST as “May 23, 2003,” instead of
6 May 23, 2007. A simple typographical error evidenced by the fact that the AST was delivered to
7 Ms. Weis on May 22, 2007, and returned on May 24, 2007. *See* Exhibit A and Affidavit of Chris
8 Ashcraft.

9
10 On July 7, 2007, before NWTS received the ADT and thus before further action in
11 foreclosure had been initiated, Debtors filed for Chapter 13 bankruptcy protection.

12 On September 2, 2008, the case was converted to a Chapter 7.

13 On January 14, 2009, WAMU filed a Motion for Relief From Stay with regard to
14 foreclosure of the property; the motion was thereafter granted by this Court. *See* Dkt. 88 and 98.

15 On April 29, 2009, after termination of the stay, NWTS recorded the AST and ADT in
16 order to resume foreclosure proceedings. The AST was recorded as King County Auditor’s File
17 No. 20090429001884, and the ADT was recorded as King County Auditor’s File No.
18 20090429001882. *See* Exhibits A and B.

19 On May 11, 2009, NWTS recorded a Notice of Trustee Sale (the “NTS”), as King County
20 Auditor’s No. 20090511000731. A true and correct copy of the NTS is hereto attached as Exhibit
21 C. The sale was scheduled to occur on August 7, 2009. *See* Exhibit C.

22 On or before August 7, 2009, NWTS was notified by its counsel that the AST included a
23 typographical error. *See* Affidavit of Chris Ashcraft ¶ 10. NWTS first postponed the foreclosure
24 sale to alert WAMU of the error, but thereafter cancelled the sale in its entirety. *Id.*

On August 13, 2009, Plaintiff Edmund J. Wood, as Chapter 7 Trustee for the Bankruptcy Estate of Steven C. Bateman and Virginia T. Lee (the "Plaintiff"), filed this Second Amended Complaint against Defendants asking for damages for various causes of action related to foreclosure of the property. Plaintiff also filed a motion for a Temporary Restraining Order in this Court to restrain the pending sale of the property. Hearing on the TRO was ultimately unnecessary as the Trustee's sale was cancelled by NWTS.

DATED this 28th day of May, 2010

ROUTH CRABTREE OLSEN, P.S.

By: /s/ Lance E. Olsen
Lance Olsen, WSBA #25130
Heidi Buck, WSBA # 41769
Attorneys for Defendant Northwest
Trustee Services, Inc.

DEFENDANT NWTS'S STATEMENT OF
UNCONTROVERTED FACTS IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT - 4
AP Case No. 09-01184-KAO

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